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FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

SEP 21 1995

In the Matter of:

Revisions to Price Cap Rules  
for AT&T)  
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CC Docket No. 93-197

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARYCOMMENTS OF  
COMPETITIVE TELECOMMUNICATIONS ASSOCIATION

The Competitive Telecommunications Association ("CompTel"), by its attorneys, respectfully submits its comments regarding the above-captioned Notice of Proposed Rulemaking.<sup>1</sup> For the reasons discussed herein, the Commission should not relax regulation of AT&T's optional calling plans or commercial MTS services.

The NPRM asks for comment on several changes to the AT&T price cap plan. Two of these potential modifications are of particular interest to CompTel's members. First, the NPRM proposes to remove AT&T's optional calling plans ("OCPs") from price cap regulation. It claims that AT&T's past pricing of these services below the price cap maximum indicates "vigorous competition," and suggests that removing OCPs from price cap regulation would lower restraints on AT&T's ability to compete, while not harming customers.<sup>2</sup> Second, the Commission seeks to develop "a more complete

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<sup>1</sup> FCC 93-197.

<sup>2</sup> Id. at ¶ 4.

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record" regarding the consequences of streamlining regulation of "commercial" MTS services.<sup>3</sup>

CompTel opposes any further deregulation of AT&T's Basket 1 services at this time. Just two years ago, the Commission concluded that it should retain price cap regulation over AT&T's Basket 1 residential and small business services.<sup>4</sup> In the intervening twenty-four months, AT&T has stabilized its market share at essentially the same level that existed when the Commission reached this conclusion. Indeed, the Commission's latest statistics indicate that AT&T is beginning to recapture market share at a rate that would bring it back to pre-price cap levels in the relatively near future.

In the first quarter of 1993, AT&T's network carried 55.5 billion switched access minutes -- a 3.7 percent increase over the fourth quarter of 1992 and a remarkable 6.9 percent increase over the preceding nine months.<sup>5</sup> At the same time, the number of minutes carried by other carriers decreased by 3.6 percent between the end of 1992 and March 1993 -- the first time since 1985 that these carriers suffered a decrease in traffic volume.<sup>6</sup> As a result, AT&T's

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<sup>3</sup> Id. at ¶ 13.

<sup>4</sup> Interexchange Competition Order, 6 FCC Rcd 5880, 5908 (¶ 165) (1991).

<sup>5</sup> Industry Analysis Division, *Long Distance Market Shares, First Quarter 1993*, at Table 2.

<sup>6</sup> Id.

share of interstate minutes -- 61.6 percent -- was virtually indistinguishable from its share in September 1991 (61.9 percent).<sup>7</sup> Similarly, AT&T's share of interstate revenues at the end of the first quarter of this year (60.7 percent) had increased over the fourth quarter of 1992 and decreased by only three percent since September 1991.<sup>8</sup>

Even taking these figures at face value, it is clear that AT&T retains the same level of dominance in the small business market that it enjoyed when the Docket 90-132 Order was released. Of course, as CompTel previously has explained, the Commission's market share statistics understate AT&T's dominance because they do not recognize that some of AT&T's market share "loss" is attributable to resellers of AT&T's services.<sup>9</sup> Although the Commission may dispute the magnitude of this omission,<sup>10</sup> it is almost certainly large enough to make AT&T's true share of the small business market higher than existed in September 1991. Consequently, by virtue of its market share alone, there is no basis for concluding that price cap regulation impedes AT&T's ability to compete in the small business market -- and certainly no basis for concluding that competition has

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<sup>7</sup> Id. at Table 3.

<sup>8</sup> Id. at Table 6.

<sup>9</sup> See Opposition of CompTel to AT&T's Petition for Waiver of Price Cap Regulations, filed October 13, 1992, at 10.

<sup>10</sup> See Notice, at ¶ 10.

assumed such a level that streamlined regulation is warranted.

These conclusions are confirmed by AT&T's ability to implement one of the largest rate increases in history shortly after the NPRM was released. In early August, AT&T increased rates for a cross-section of services, including many within Basket 1, by almost 200 million dollars, and it has just announced an additional rate increase that will raise the Service Band Index for Domestic Day, MTS by almost two points.<sup>11</sup> Notably, AT&T's OCPs are not immune from rate increases; in the time since the NPRM was released, the Service Band Index for OCPs has increased from 82.9 to 83.8, and remains more than three points above the lower service band.<sup>12</sup> This strongly indicates that the market for OCPs is not as competitive as the NPRM suggests, and that existing regulation does not constrain AT&T's ability to compete.

Against this background, streamlining regulation of OCPs and small business services would harm both competition and consumers. AT&T would be free to implement additional rate increases without Commission oversight, and to offset those increases with non-cost based decreases for services where competition is stronger. Moreover, as the Commission recognizes, streamlining regulation of commercial MTS

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<sup>11</sup> AT&T Tariff FCC No. 1, Transmittal No. 5750, at 2 (filed Sept. 15, 1993).

<sup>12</sup> Id.

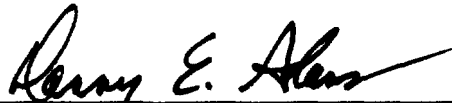
services would raise "significant issues concerning restrictions on use and resale," market segmentation, and discrimination.<sup>13</sup> AT&T could, for example, extend new MTS volume discounts to commercial users but restrict resale of these offerings to residential customers. Similarly, it could raise day rates for residential but not commercial customers, even though the service provided (MTS) is exactly the same.

In short, streamlining OCPs and "commercial" services would serve AT&T's private interests without advancing competition or benefitting consumers. The Commission accordingly should decline to adopt its OCP streamlining proposal and should reject AT&T's request that commercial services be removed from price cap regulation.

Respectfully submitted,

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<sup>13</sup> Notice at ¶ 12.